

ORDINANCE NO. 927-2005

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CHAPTER 130 OF THE CODE OF ORDINANCES, GENERAL PROVISIONS; TO CREATE SECTION 130-06, SEXUAL OFFENDERS AND SEXUAL PREDATORS; DELINEATING FINDINGS AND INTENT; PROVIDING DEFINITIONS; ESTABLISHING A SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE PROHIBITION FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES SPECIFIED HEREIN, FROM LIVING WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF MIAMI SPRINGS; PROVIDING PENALTIES; SPECIFYING EXCEPTIONS; PROVIDING A PROHIBITION FOR PROPERTY OWNERS FROM RENTING REAL PROPERTY, INCLUDING ANY STRUCTURE, OR PART THEREOF, LOCATED WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF MIAMI SPRINGS TO SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES SPECIFIED HEREIN; PROVIDING PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; DIRECTIONS TO CODIFIERS; EFFECTIVE DATE.

WHEREAS, the City Council of the City of Miami Springs is cognizant and concerned about the numerous incidents in the state and across the country involving repeat violations committed by previously convicted and released sexual crime offenders; and,

WHEREAS, the City Council of the City of Miami Springs has determined, from evidence involving previously released sexual crime offenders, that there is a high rate of recidivism, especially for those offenders who commit crimes against children; and,

WHEREAS, the City of Miami Springs has always been a predominately residential community, is currently composed of ninety-seven (97%) percent residential uses, and has consistently maintained a hometown atmosphere which attracts relocation by young families with small children; and,

WHEREAS, the City of Miami Springs is the location of many public and private schools, maintains numerous parks and recreational areas, and encourages participation in a variety of athletic programs for children; and,

WHEREAS, based upon the foregoing, the City of Miami Springs, unfortunately, appears to present an environment that is highly susceptible to the unlawful conduct and unlawful acts of sexual offenders and sexual predators; and,

WHEREAS, the City Council of the City of Miami Springs wishes to establish policy and enact corresponding legislation that will provide the maximum protection for the citizens of the City and their family members from the unlawful conduct and unlawful acts of sexual offenders and sexual predators; and,

WHEREAS, a residence prohibition of one thousand (1,000) feet has been provided in Florida Statute Sections 794.065 and 947.1405 from specified locations set forth in the Statutes for certain sexual offenders and sexual predators; and,

WHEREAS, in addition , Florida Statute Section 847.0134 provides that certain adult entertainment venues may not be located within two thousand five hundred (2,500) feet of real property that houses public or private schools; and,

WHEREAS, Article VIII, Section 2(b) of the Constitution of the State of Florida and Florida Statute Section 166.021 provide municipalities with the legislative authority to protect the health, safety and welfare of the City and its citizens; and,

WHEREAS, the City Council of the City of Miami Springs has determined that it is in the best interests of the City and its citizens to provide legislation that further restricts and limits the residential locations legally available to sexual offenders and sexual predators within the corporate limits of the City:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA:

Section 1: That Code of Ordinance Chapter 130, General Provisions, is hereby amended by the creation of Code of Ordinance Section 130-06, Sexual Offenders and Sexual Predators, as follows:

Chapter 130. General Provisions.

Section 130-06. Sexual Offenders and Sexual Predators.

(A) Findings and Intent.

- 1. Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.**

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2. It is the intent of this Section to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

B. Definitions.

The following words, terms and phrases, when used in this Section shall have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

1. *Permanent Residence* - means a place where the person abides, lodges or resides for fourteen (14) or more consecutive days.
2. *Temporary Residence* - means a place where the person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

C. Sexual Offender and Sexual Predator Residence Prohibition; Penalties; Exceptions.

1. It is unlawful for any person who has been convicted of a violation of Sections 794.011, 800.04, 827.071 or 847.0145, Florida Statutes, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, to establish a permanent residence or temporary residence within two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.

2. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.
3. *Penalties.* A person who violates this Section shall be punished by a fine not exceeding Five Hundred (\$500.00) Dollars or by imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment; for a second or subsequent conviction of a violation of this Section, such person shall be punished by a fine not to exceed One Thousand (\$1,000.00) Dollars or imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.
4. *Exceptions.* A person residing within two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate does not commit a violation of this Section if any of the following apply:
 - (a) The person established the permanent residence prior to July 1, 2005.
 - (b) The person was a minor when he/she committed the offense and was not convicted as an adult.
 - (c) The person is a minor.

- (d) The school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate, located within two thousand five hundred (2,500) feet of the person's permanent residence, was opened after the person established the permanent residence.

D. Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.

1. It is unlawful to let or rent any place, structure, or part thereof, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to Subsection (C) of this Ordinance, if such place, structure, or part thereof, is located within two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park playground, or other place where children regularly congregate.
2. A property owner's failure to comply with provisions of this Section will constitute a violation of this Ordinance and shall subject the property owner to the code enforcement provisions and procedures as provided in Sections 32-65 through 32-71 and Section 101-01 of this Code, including all provisions of the Code of Ordinances and otherwise, that allow the City to seek all other relief as may otherwise be provided by law.

Section 2: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar as they are in conflict.

Section 3: That if any section, sub-section, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 4: That the codifiers are hereby directed to codify this Ordinance in accordance with the provisions contained herein, their usual practices, and their reasonable judgment and discretion.

Section 5: That this Ordinance shall take effect in the manner provided by law.

PASSED AND ADOPTED by the City Council of the City of Miami Springs,
Florida this 27th day of June, 2005.

The motion to adopt the foregoing ordinance was offered on second
reading by Councilman Youngs, seconded by Councilman Dotson,
and on roll call the following vote ensued:

Vice Mayor Best	“aye”
Councilman Dotson	“aye”

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Councilman Garcia
Councilman Youngs
Mayor Bain

“aye”
“aye”
“aye”

Billy Bain
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Jan K. Seiden, Esquire
City Attorney

1st reading: 06/13/2005
2nd reading: 06/27/2005

Words ~~stricken through~~ shall be deleted. Underscored words constitute the amendment proposed.
Words remaining are now in effect and remain unchanged.

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